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C O N F I D E N T I A L SECTION 01 OF 02 SANAA 001450

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TAGS: PREL KTIA YM KICC

SUBJECT: U/S BOLTON 6/16-17 VISIT TO YEMEN: ARTICLE 98

REF: A. 02 STATE 84875 B. SANAA 1263

Classified By: DCM ALAN G. MISENHEIMER FOR REASONS 1.5 (B) AND (D)

Summary

11. (C) Summary: ROYG Foreign Minister al-Qirbi pledged his support for an Article 98 agreement with the U.S. during the June 16-17 visit of U/S Bolton. On timing, President Saleh was equivocal, suggesting that Yemen would not sign until a specified list of other Arab states were on board. According to the Foreign Minister, Saleh later agreed that Yemen would join "some" other Arab signatories by exchanging diplomatic notes (on the Egyptian model). Al-Qirbi estimates the Ministry of Legal Affairs will take six to eight weeks to complete preparations for the notes. Parliamentary ratification of the Rome statute, which Yemen signed in 2002, will not come until some time later in the year. End Summary

Article 98: Important to America

12. (C) During his June 16-17 visit to Yemen (septels), Under Secretary John Bolton pressed Foreign Minister Abu Bakr

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al-Qirbi on the urgent need to sign an Article 98 agreement with the U.S. Explaining the importance of the issue to the American people, as well as the Administration, U/S Bolton assured the Minister that Article 98 is not meant to provide immunity for American citizens accused of serious crimes. In such circumstances, U.S. courts would provide immediate and vigorous prosecution. The International Criminal Court, in contrast, risks becoming politicized and thus losing both credibility and effectiveness.

13. (C) U/S Bolton reminded the Foreign Minister that Egypt, Djibouti, and Bahrain had already signed Article 98 agreements, and Kuwait was about to do so. Yemen should join them as soon as possible. A team of experienced U.S. negotiators would be ready to assist with any ROYG questions.

Endorsing the Agreement

14. Al-Qirbi agreed on the importance of concluding an Article 98 agreement, having studied the issue for some time. His staff had recently completed a report on Article 98, recommending an exchange of diplomatic notes, rather than a bilateral treaty that would require parliamentary approval. Al-Qirbi promised U/S Bolton to refer that report, with his endorsement, to the Ministry of Legal Affairs for action.

President Saleh: Bargaining on Numbers

15. President Ali Abdullah Saleh seemed less forthcoming during his Article 98 discussions with U/S Bolton. Saleh said he wanted to see his GCC neighbors and a number of other Arab states on board before Yemen signed. His list of countries which must act before Yemen included the GCC countries, Egypt, Djibouti, Jordan, Morocco, Tunisia, and Mauritania. Half-jokingly, he proposed that the U.S. commit \$100 million in development aid if it needed Yemen's immediate agreement.

16. U/S Bolton reminded Saleh that it was politically important for Yemen to sign an agreement as soon as possible. Other Arab States had either signed already, or were in the process of concluding agreements; Yemen should not wait for the last minute.

Yemeni Timetable: Six to Eight Weeks

17. In a follow-up meeting on June 18 with Charge, FM al-Qirbi said he had reviewed U/S Bolton's visit with ROYG President Saleh. Saleh had agreed in principle to an Article 98 signing, as long as "some" other Arab states were already enrolled. With this presidential green light, Qirbi

estimated that the Ministry of Legal Affairs would take six to eight weeks to prepare for the exchange of notes.

18. The Charge welcomed al-Qirbi's assurances, and again stressed the need for Yemen to conclude an agreement as soon as possible. Rather than waiting for other Arab states to act, Yemen should lead. Al-Qirbi quipped that leadership is costly in the Middle East, but Yemen would proceed. Charge asked the Foreign Minister to follow the issue personally, and promised to supply any information required by the Ministry of Legal Affairs. He stressed that the exact wording of the text is very important and should follow the successful models already in force to prevent unnecessary delay.

17. Qirbi concluded by noting that Yemen's formal ratification of the Rome Statute was "months away." It had been referred to the Yemeni Parliament for ratification immediately after signing. However, with the seating of the new parliament and government following the April 2003 elections, the ratification process would have to begin again as new business.

COMMENT

18. Comment: FM Qirbi's timeline - six to eight weeks for Legal Affairs to complete preparations for the exchange of diplomatic notes - is potentially achievable, given President Saleh's nod of approval and the number of Arab states now lined up for signature. We will prod the ROYG on Article 98 progress at every opportunity, and provide whatever information resources are needed to speed the work. End

Comment
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